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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,645	02/13/2004	Roman Kappeler	KAPPELER2	5390
1444	7590	08/01/2006	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			CARTAGENA, MELVIN A	
		ART UNIT		PAPER NUMBER
		3754		

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/777,645	KAPPELER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Melvin A. Cartagena	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,8 and 14-18 is/are rejected.
- 7) Claim(s) 1,5 and 9-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12072004.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: Claim 1 recites the limitation "the part of the medium with lower viscosity" in lines 9-10, 12-13 and 17. There is insufficient antecedent basis for this limitation in the claim.

Is not clear what the parenthesis in claim 1, lines 15 and 16, indicate.

Appropriate correction is required.

2. Claims 5-7 and 9-13 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 8, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,876,105 to Kelling.

Kelling shows an apparatus that dispenses a medium capable of flow that undergoes a change to a state of lower viscosity with increased temperature, as seen in Fig. 1, having a container 5 to receive a medium, a melting device 6 in the form of a grill, an outlet zone 10, a storage unit 7, the storage unit is equipped with a level sensor 31, a electrical heating cartridge

32 and a cooler area near a pump 8 obtained by heat transferring thru heat conducting posts 42 downwards from the outlet zone and the heating and melting device to a cool zone that serves as a heat sink, see column 7, lines 8-11.

In reference to claim 3:

See Fig. 7 and column 4, lines 30-31, where Kelling indicate a control sensor used to maintained a set temperature.

In reference to claim 8:

The storage unit is heatable, see column 5, lines 27-30.

In reference to claims 14 and 15:

The device of Kelling performs the process claimed in claims 14 and 15 by controlling the temperature in response to the volume in the storage container, see column 5, lines 61-68 and column 6, lines 1-7, and removing the medium when the medium is capable of flowing, see column 7, lines 16-28.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,876,105 to Kelling in view of US 6,003,732 to Farley et al.

Kelling shows all claimed features as discussed above except for a follower plate following the medium in the container as the medium is extracted. Farley shows an apparatus

that dispenses a medium capable of flow that undergoes a change to a state of lower viscosity with increased temperature having a follower plate 30 that follows the medium in the container as the medium is extracted, see column 3, lines 38-53. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Kelling to include a follower plate as taught by Farley to remove a maximum amount of medium from the drum.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Worthington shows a method and apparatus for the production of structures. Phillips shows an apparatus for melting solidify material. Scholl ('645) shows an apparatus for melting and dispensing a thermoplastic material. Scholl ('416) shows an apparatus for melting and dispensing a thermoplastic material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-F (7:30AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAC 3/15/06  
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